

REMARKS

Canceled Claims

Claims 19-27 are hereby canceled without prejudice.

New Claims

Claims 28-33 are added by this Response. The claims are supported by the specification, figures, and claims of the application as originally filed. On information and belief the claims do not add objectionable new matter.

ARGUMENTS

References Discussed Herein

The following U.S. Patents are discussed herein:

US 3,629,985 to Ueno ("Ueno")
US 4,177,614 to Arp ("Arp")
US 5,239,798 to Saito ("Saito")
US 5,791,098 to Thomas ("Thomas")
US 6,647,562 B1 to Arout et al ("Arout")

Rejections Under 35 U.S.C. § 112, Second Paragraph

The Examiner rejects claims 25 and 26 under 35 U.S.C. § 112, Second Paragraph. However, Applicant cancels claims 25 and 26 in this Response.

Rejections under 35 U.S.C. § 103(a)

The Examiner rejects claims 19, 21-23, and 25-27 as obvious in view of Arp, Arout, and Ueno. The Examiner also rejects claim 20 in view of Arp, Arout, Ueno, and Saito. In addition, the Examiner rejects claim 24 as obvious in view of Arp, Arout, Ueno, and Thomas.

As mentioned above, Applicant has cancelled the rejected claims. The newly added claims are not anticipated by any of Arp, Arout, Ueno, Saito, and Thomas nor are the claims obvious in view of any combination of Arp, Arout, Ueno, Saito, and Thomas.

Claim 28 recites:

A modular pool, comprising
substantially vertical **side walls** comprising modular metallic panels and a floor comprising metallic tiles, said side walls and said floor resting upon a base structure formed from a lattice comprising metallic U-shaped beams with metallic U-shaped sleepers placed crosswise between said beams, each one of said modular metallic panels comprising a central vertical rectangular portion with flanges along its horizontal and vertical edges, the horizontal flanges along the horizontal edges being at right angles to said central portion, and the vertical flanges along at least one of the vertical sides being at right angles to said central portion,

wherein said central vertical rectangular portion is flat, **each side wall comprising one or more assemblies formed by the superposition of two or more said modular metallic panels assembled in a vertically coincident relationship with their vertical sides rectilinearly aligned, the juxtaposed horizontal flanges of said superposed modular metallic panels being joined by semi-permanent attaching means** and the vertical flanges of each assembly being vertically aligned in a rectilinear relation,

and

a **vertical member** which has its length substantially equal to the height of said assemblies being interposed between the vertical flanges of adjacent assemblies and attached thereto by semi-permanent attaching means. **[Emphasis added]**

Neither Arp, Aroust or Ueno disclose **side walls comprising one or more assemblies** (40, 41, 42, 43 in FIG. 14 of instant application), each set **formed by the superposition of two or more said modular metallic panels assembled in a vertically coincident relationship with their vertical sides rectilinearly aligned**, that is, the vertical sides of the superposed panels form a straight line.

Arp discloses a pool comprising at least three tiers of panels, however THEIR VERTICAL EDGES ARE NOT ALIGNED BUT ARE STAGGERED as shown in FIG. 1 of Arp. This staggering does not allow the use of **vertical members** such as 65 in the FIGS. of the instant application. Although Arp also discloses that "Pool walls having rectangular or other configurations require panels in more than one shape and cooperating braces or other wall strengthening devices," Arp DOES NOT DISCLOSE EITHER THE SHAPES OF SUCH PANELS OR OF SAID WALL STRENGTHENING DEVICES.

Aroust discloses flat panels having a rectangular flat central portion and upper, lower and side flanges. All the structures shown in the FIGS. of Aroust comprise ONLY ONE TIER OF PANELS, the height of which can be adapted for the intended use. Again, please refer back to the following language of claim 28: **side walls comprising one or more assemblies, each set formed by the superposition of two or more said modular metallic panels assembled in a vertically coincident relationship with their vertical sides rectilinearly aligned**. Fig. 2 of Aroust shows a shallower pool while FIG. 1 depicts a deeper pool, in which the panels are taller. Although lines 66-67, col. 5 of Aroust disclose that "simply joining panels along the length thereof can achieve increases in height" there is no disclosure of how this can be achieved or which joining means might be employed.

It should be noted that in pools having longer sides, that is, pools whose sides are a multiple of the horizontal panel dimension and comprising several tiers of modular panels, such as depicted in FIGS. 6 and 14 of the instant application, a reinforcement such as the **vertical member**, item 65 in the FIGS. of the instant application, should be used in order to avoid outward buckling of the walls due to the water pressure, as explained in the specification of the instant application. Neither Arp nor Aroust contemplate the use of members similar to the **vertical member** of claim 28.

Saito relates to the field of lightweight curtain walls for multi-story buildings, comprising panels that provide finishing, decorative and waterproof exterior walls. Said panels comprise exterior panel segments, generally formed as rectangles, of stone, glass, ceramic or metal sheet, which are mounted on lightweight metal frames, the frames being covered with rustproof light-gauge metal skins 5, the frames being depicted in detail in FIGS. 4, 5 and 6. As described in lines 50 to

57, of col. 5, these frames are provided with bolt holes 6 that extend through the lightweight metal skin 5 and frame members 2, 3, 2A and 3A so as to form continuous holes. Finishing panels 8 are supported by anchor bolts 9 which are fitted into said holes 6 as shown, for example, in figures 2 and 3. Although the horizontal and vertical edge portions adjacent to the sides of each metal skin 5 are bent to form horizontal and vertical flanges which overlie the external flanges of the angle steel members, it should be stressed that there are **NO HOLES PROVIDED IN THOSE EXTERNAL FLANGES OR IN THE FLANGES FORMED BY BENDING THE EDGE PORTIONS**. Moreover, the external flanges do not touch, as can be seen in FIGS. 7, 22, 22A, 23, 27A and so on. Frames 4 are not attached to one another along these external flanges, being attached instead to the structure of the building, such as slabs 1 and 1A by means of brackets 4A and 4B. Therefore, the mounting frames 4 of Saito are different in form and in function from the **superposed modular metallic panels having juxtaposed horizontal flanges** and which are **joined by semi-permanent attaching means** as recited in claim 28. See the FIGS. of the instant application, specifically, bolt holes 36 provided in the flanges 32, 33, 34, 45, which are in contact as shown in Fig. 14, whereupon bolts 44 and nuts 45 are fitted into said holes to provide a rigid coupling between adjacent **modular metallic panels**, in order to form a rigid wall.

Applicant submits that Ueno and Thomas are inapplicable to claim 28. However, the Applicant suspects that the Examiner may choose to apply the Ueno and/or Thomas in attempting to reject claim 29, in combination with other references. Therefore, Applicant addresses Ueno and Thomas with reference to claim 29 below.

Claim 29 recites:

The **modular** pool of claim 28, in which the floor of the pool comprises a plurality of **metallic modular tiles** forming a substantially planar surface which **supports the vertical pressure due to the water inside the pool**, wherein each said **modular tile** comprises:

a **rectangular flat plate** having:
 longer sides and shorter sides;
 ends that rest upon the sleepers of said base structure; and
 marginal portions between said sleepers, said marginal portions being bent downward forming flanges along the longer sides of said flat plate,
 said tiles being placed with said flanges in a **mutually adjoining relation**. [Emphasis added]

Although Ueno discloses a pool bottom comprising a plurality of metallic modular tiles, these have a "boxlike" configuration as disclosed in lines 42-45 of col. 4. These tiles are placed onto a gridlike lattice formed by channel members in such a way that the four sidewalls fit loosely inside said channels, **LEAVING A GAP BETWEEN ADJACENT TILES** which is filled by a moldable composition 28 such as asphalt, in order to allow the movement of these tiles depending on water pressure or earth pressure. The pool bottom disclosed in the instant application does not require any moldable or caulking compound between tiles. Moreover the tiles of the recited in claim 29 are placed in a **mutually adjoining relation**. Moreover, these tiles, having a **rectangular flat plate have longer sides and shorter sides**, are shaped differently from the "boxlike" tiles disclosed by Ueno.

Thomas discloses an enclosure having modular walls, a reinforced cover and a base, and relates mainly to accessible enclosures for public utility components, such as electric and telephone

cables. It does not relate to a **pool**. The enclosure walls are structured to withstand vertical loads due to vehicle traffic upon a cover 26, and are not intended to withstand any horizontal stresses due to water pressure inside the enclosure, as is the case with tanks or swimming **pools**. As stated in line 65 of column 4, the enclosure is NOT INTENDED TO BE WATERTIGHT and therefore could not be used for a **pool**. The enclosure disclosed by Thomas includes a base comprising a floor 46 combined with upstanding members 48 upon which the lower edges of the walls 12 are seated, the floor and upstanding members being combined in ONE RIGID UNIT. This means that it is not **modular**. In Thomas, the base having the floor serves to maintain the spaced-apart relationship of the walls and to provide a foundation for the cover and walls, as stated in lines 58 to 60, col. 4. Therefore, the floor disclosed in Thomas is rather different from the floor recited in claim 29, the latter being formed by a plurality of **metallic modular tiles**, each of which **supports the vertical pressure due to the water inside the pool**. Additionally, Thomas fails to disclose or make obvious **modular metallic tiles with ends that rest upon the sleepers of said base structure**. Clearly, Thomas, which discloses an enclosure that is not watertight and could not be used for a **pool** and which fails to disclose the many other limitations discussed herein, cannot be applied against claim 29 to anticipate or render it obvious in combination with another reference.

Claims 30-32 depend from claim 28, which has been shown to be patentable in view of the prior art. Therefore, claims 30-32 should also be patentable.

Likewise, **claim 33** depends from claim 29, which has been shown to be patentable over the prior art. For that reason, claim 33 should also be patentable. In addition, Applicant points out that Thomas fails to disclose the further limitation of claim 33, which recites “...wherein at least one of said metallic tiles is provided with an opening for a drain in the floor of the pool.”

CONCLUSION

Applicant believes that the claims as shown in the present Listing of the Claims are each patentable in view of the prior art and further believes that this is a complete response to the Office Action of April 28, 2009. Prompt notice of allowance is respectfully requested. If there are any questions, the Examiner is invited to phone Applicant's undersigned attorneys.

Respectfully submitted:

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